

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
JAMIE PORTILLO,

USDC SDNY
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Plaintiff, : ORDER
16 Civ. 4731 (VEC) (GWG)

-v.- : -----X

JENNIFER WEBB, MANUEL ALDIR, and :
LYCHA GASANOV : -----X

Defendants.

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

In a Report and Recommendation, dated October 12, 2017 (Docket # 34), the Court recommended that plaintiff be given 21 days to file a second amended complaint. We also noted at that time that, because plaintiff is a “monolingual Spanish speaker,” he had to include in any amended filing “a clear explanation that the new amended complaint was composed by Portillo and that it has been accurately translated.” That Report and Recommendation was adopted on January 17, 2018 (Docket # 38).

In the meantime, on November 28, 2017, Portillo filed a Second Amended Complaint (Docket # 37). This Second Amended Complaint, however, did not contain a certification that it was written by plaintiff and then accurately translated from Spanish to English.

Portillo then wrote to the Court asking for assistance with translation and for permission to file a third amended complaint. See Letter from Jamie Portillo, dated Jan. 27, 2018 (Docket # 40). In an Order dated February 7, 2018 (Docket # 41), the Court explained that it could not provide translation assistance. But it granted plaintiff’s request to file a third amended complaint and gave a filing deadline of February 28, 2018. In the February 7 Order, the Court noted that any amended complaint “must contain a clear explanation that it was written by Portillo and that it has been accurately translated from Spanish to English.”

That February 28 deadline has now passed. Portillo has not filed a third amended complaint or sought an extension of the deadline.

At this point, the Court cannot accept plaintiff’s Second Amended Complaint because the Court does not know that it was written by Portillo and was accurately translated from Spanish to English. If Portillo wishes to proceed with this case he needs to file a third amended complaint. Any third amended complaint must contain a certification that it was written by Portillo (though he is certainly permitted assistance in doing so) and a sworn statement from the translator of the document stating that he or she translated the document written by Portillo from Spanish to English and that the translator accurately translated the document. It should also explain the level of the translator’s knowledge of English and Spanish.

Portillo is granted until April 2, 2018, to file a third amended complaint that meets these requirements. If he does not do so, this case may be dismissed either under Fed. R. Civ. P. 12(b)(6) because Portillo has not filed a complaint that states a claim, or under Fed. R. Civ. P. 41(b) for failure to prosecute.

SO ORDERED.

Dated: March 12, 2018
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge

Copy sent to:

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